

E2SHB 2572 - S AMD
By Senator

ADOPTED AS AMENDED 03/01/2006

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** FINDINGS AND INTENT. (1) The legislature
4 finds that many small employers struggle with the cost of providing
5 employer-sponsored health insurance coverage to their employees, while
6 others are unable to offer employer-sponsored health insurance due to
7 its high cost. Low-wage workers also struggle with the burden of
8 paying their share of the costs of employer-sponsored health insurance,
9 while others turn down their employer's offer of coverage due to its
10 costs. A small employer health insurance program that provides
11 subsidies for employers who want to purchase one type of insurance and
12 allows other employers to choose more kinds of low-cost insurance
13 products would help more small employers provide health insurance for
14 their employees.

15 (2) The legislature intends, through establishment of a small
16 employer health insurance partnership program, to remove economic
17 barriers to health insurance coverage for low-wage employees of small
18 employers by building on the private sector health benefit plan system
19 and encouraging employer and employee participation in
20 employer-sponsored health benefit plan coverage.

21 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
22 section apply throughout this chapter unless the context clearly
23 requires otherwise.

24 (1) "Administrator" means the administrator of the Washington state
25 health care authority, established under chapter 41.05 RCW.

26 (2) "Eligible employee" means an individual who:

27 (a) Is a resident of the state of Washington;

28 (b) Has family income less than two hundred percent of the federal

1 poverty level, as determined annually by the federal department of
2 health and human services; and

3 (c) Is employed by a small employer.

4 (3) "Health benefit plan" has the same meaning as defined in RCW
5 48.43.005 or any plan provided by a self-funded multiple employer
6 welfare arrangement as defined in RCW 48.125.010 or by a self-insured
7 employer-sponsored health benefit arrangement under the federal
8 employee retirement income security act of 1974, as amended.

9 (4) "Program" means the small employer health insurance partnership
10 program established in section 3 of this act.

11 (5) "Small employer" has the same meaning as defined in RCW
12 48.43.005.

13 (6) "Subsidy" means payment or reimbursement to an eligible
14 employee toward the purchase of a health benefit plan, and may include
15 a net billing arrangement with insurance carriers or a prospective or
16 retrospective payment for health benefit plan premiums.

17 NEW SECTION. **Sec. 3.** SMALL EMPLOYER HEALTH INSURANCE PARTNERSHIP
18 PROGRAM ESTABLISHED. To the extent funding is appropriated in the
19 operating budget for this purpose, the small employer health insurance
20 partnership program is established. The administrator shall be
21 responsible for the implementation and operation of the small employer
22 health insurance partnership program, directly or by contract. The
23 administrator shall offer premium subsidies to eligible employees under
24 section 5 of this act, subsidies to fund a health savings account under
25 section 4 of this act, or a business and occupation tax deduction under
26 section 6 of this act.

27 NEW SECTION. **Sec. 4.** HEALTH SAVINGS ACCOUNT SUBSIDIES TO ELIGIBLE
28 EMPLOYEES. (1) Beginning July 1, 2007, the administrator shall accept
29 applications from eligible employees, on behalf of themselves, their
30 spouses, and their dependent children, to receive subsidies to fund a
31 health savings account through the small employer health insurance
32 partnership program.

33 (2) Health savings account subsidy payments may be provided to
34 eligible employees if:

35 (a) The eligible employee is employed by a small employer; and

1 (b) The eligible employee participates in an employer sponsored
2 high deductible health plan and health savings account that conforms to
3 section 223, Part VII of subchapter B of chapter 1 of the internal
4 revenue code of 1986.

5 (3) The amount of an eligible employee's health savings account
6 subsidy shall be determined by the legislature in the biennial
7 operating budget.

8 (4) After an eligible individual has enrolled in the program, the
9 program shall issue subsidies in an amount determined pursuant to
10 subsection (3) of this section to either the eligible employee or to
11 the carrier designated by the eligible employee.

12 (5) An eligible employee must agree to provide verification of
13 continued enrollment in his or her small employer's health benefit plan
14 on a semiannual basis or to notify the administrator whenever his or
15 her enrollment status changes, whichever is earlier. Verification or
16 notification may be made directly by the employee, or through his or
17 her employer or the carrier providing the small employer health benefit
18 plan. When necessary, the administrator has the authority to perform
19 retrospective audits on health savings account subsidy accounts. The
20 administrator may suspend or terminate an employee's participation in
21 the program and seek repayment of any subsidy amounts paid due to the
22 omission or misrepresentation of an applicant or enrolled employee.
23 The administrator shall adopt rules to define the appropriate
24 application of these sanctions and the processes to implement the
25 sanctions provided in this subsection, within available resources.

26 NEW SECTION. **Sec. 5.** PREMIUM SUBSIDIES TO ELIGIBLE EMPLOYEES.

27 (1) Beginning July 1, 2007, the administrator shall accept applications
28 from eligible employees, on behalf of themselves, their spouses, and
29 their dependent children, to receive premium subsidies through the
30 small employer health insurance partnership program.

31 (2) Premium subsidy payments may be provided to eligible employees
32 if:

33 (a) The eligible employee is employed by a small employer; and

34 (b) The small employer will pay at least forty percent of the
35 monthly premium cost for health benefit plan coverage of the eligible
36 employee.

1 (3) The amount of an eligible employee's premium subsidy shall be
2 determined by applying the sliding scale subsidy schedule developed for
3 subsidized basic health plan enrollees under RCW 70.47.060 to the
4 employee's premium obligation for his or her employer's health benefit
5 plan. However, in no case shall the amount of an eligible employee's
6 monthly premium subsidy exceed the amount he or she would have received
7 as a basic health plan enrollee.

8 (4) After an eligible individual has enrolled in the program, the
9 program shall issue subsidies in an amount determined pursuant to
10 subsection (3) of this section to either the eligible employee or to
11 the carrier designated by the eligible employee.

12 (5) An eligible employee must agree to provide verification of
13 continued enrollment in his or her small employer's health benefit plan
14 on a semiannual basis or to notify the administrator whenever his or
15 her enrollment status changes, whichever is earlier. Verification or
16 notification may be made directly by the employee, or through his or
17 her employer or the carrier providing the small employer health benefit
18 plan. When necessary, the administrator has the authority to perform
19 retrospective audits on premium subsidy accounts. The administrator
20 may suspend or terminate an employee's participation in the program and
21 seek repayment of any subsidy amounts paid due to the omission or
22 misrepresentation of an applicant or enrolled employee. The
23 administrator shall adopt rules to define the appropriate application
24 of these sanctions and the processes to implement the sanctions
25 provided in this subsection, within available resources.

26 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.04 RCW
27 to read as follows:

28 (1) In computing tax there may be deducted from the measure of tax
29 the amount paid by small employers to provide health care services for
30 its employees. Payments made by employees are not eligible for
31 deduction under this subsection.

32 (2) For the purposes of this section, the following definitions
33 apply:

- 34 (a) "Small employer" has the meaning provided in RCW 48.43.005;
- 35 (b) "Health care services" means a health benefit plan as defined
36 in RCW 48.43.005, contributions to health savings accounts as defined

1 by the United States internal revenue service, or other health care
2 services purchased by the small employer for its employees.

3 NEW SECTION. **Sec. 7.** ENROLLMENT LIMITS TO REMAIN WITHIN
4 APPROPRIATION. Enrollment in the small employer health insurance
5 partnership program is not an entitlement and shall not result in
6 expenditures that exceed the amount that has been appropriated for the
7 program in the operating budget. If it appears that continued
8 enrollment will result in expenditures exceeding the appropriated level
9 for a particular fiscal year, the administrator may freeze new
10 enrollment in the program and establish a waiting list of eligible
11 employees who shall receive subsidies only when sufficient funds are
12 available.

13 NEW SECTION. **Sec. 8.** COLLABORATION WITH COMMUNITY ORGANIZATIONS.
14 In implementing the small employer health insurance partnership
15 program, the administrator shall work with organizations awarded grants
16 through the community health care collaborative grant program
17 established under Engrossed Second Substitute Senate Bill No. 6459, if
18 enacted. The administrator may use funds appropriated for the small
19 employer health insurance partnership program to enhance a grant
20 otherwise awarded to a community-based organization. The grant
21 enhancement shall be used by the organization specifically to provide
22 a premium subsidy to eligible employees within the geographic region it
23 serves.

24 NEW SECTION. **Sec. 9.** RULES. The administrator shall adopt all
25 rules necessary for the implementation and operation of the small
26 employer health insurance partnership program. As part of the rule
27 development process, the administrator shall consult with small
28 employers, carriers, employee organizations, and the office of the
29 insurance commissioner under Title 48 RCW to determine an effective and
30 efficient method for the payment of subsidies under this chapter,
31 including methods for electronic funds transfers of the subsidy. All
32 rules shall be adopted in accordance with chapter 34.05 RCW.

33 NEW SECTION. **Sec. 10.** REPORTS TO THE LEGISLATURE. The
34 administrator shall report biennially to the relevant policy and fiscal

1 committees of the legislature on the effectiveness and efficiency of
2 the small employer health insurance partnership program, including the
3 services and benefits covered under the purchased health benefit plans,
4 consumer satisfaction, and other program operational issues.

5 NEW SECTION. **Sec. 11.** STATE CHILDREN'S HEALTH INSURANCE
6 PROGRAM--FEDERAL WAIVER REQUEST. The department of social and health
7 services shall submit a request to the federal department of health and
8 human services by October 1, 2006, for a state children's health
9 insurance program section 1115 demonstration waiver. The waiver
10 request shall seek authorization from the federal government to draw
11 down Washington state's unspent state children's health insurance
12 program allotment to finance basic health plan coverage, as provided in
13 chapter 70.47 RCW, for parents of children enrolled in medical
14 assistance or the state children's health insurance program. The
15 waiver also shall seek authorization from the federal government to
16 utilize the resulting state savings to finance expanded basic health
17 plan enrollment, or subsidies provided to low-wage workers through the
18 small employer health insurance partnership program established in this
19 chapter.

20 NEW SECTION. **Sec. 12.** The joint legislative audit and review
21 committee shall conduct a program and fiscal review of the small
22 employer health insurance partnership program and report their findings
23 and recommendation to the appropriate committees of the legislature no
24 later than November 2009. The review shall include an assessment of at
25 least the following issues:

26 (1) The extent to which eligible employees' employers were
27 providing health insurance coverage prior to their entry into the
28 program, and whether their employer modified their contribution to
29 health plan premium costs or the scope of coverage provided prior to
30 the employee's entry into the program;

31 (2) The extent to which eligible employees are employed by an
32 employer who began providing health insurance coverage to its employees
33 due at least in part to the availability of the program;

34 (3) The average percentage and dollar amount of employer
35 contributions to premiums for eligible employees and dependents
36 participating in the program;

1 (4) The scope of covered benefits and the cost of
2 employer-sponsored health plans being subsidized through the program;
3 and

4 (5) The amount of the state premium subsidy per participating
5 employee and their dependents, in comparison to the cost that the state
6 would have incurred if the eligible employees and their dependents were
7 enrolled in the basic health plan.

8 **Sec. 13.** RCW 48.21.045 and 2004 c 244 s 1 are each amended to read
9 as follows:

10 (1)~~((a))~~ An insurer offering any health benefit plan to a small
11 employer, either directly or through an association or member-governed
12 group formed specifically for the purpose of purchasing health care,
13 may offer and actively market to the small employer ((a)) no more than
14 one health benefit plan featuring a limited schedule of covered health
15 care services. ~~((Nothing in this subsection shall preclude an insurer~~
16 ~~from offering, or a small employer from purchasing, other health~~
17 ~~benefit plans that may have more comprehensive benefits than those~~
18 ~~included in the product offered under this subsection. An insurer~~
19 ~~offering a health benefit plan under this subsection shall clearly~~
20 ~~disclose all covered benefits to the small employer in a brochure filed~~
21 ~~with the commissioner.~~

22 ~~(b) A health benefit plan offered under this subsection shall~~
23 ~~provide coverage for hospital expenses and services rendered by a~~
24 ~~physician licensed under chapter 18.57 or 18.71 RCW but is not subject~~
25 ~~to the requirements of RCW 48.21.130, 48.21.140, 48.21.141, 48.21.142,~~
26 ~~48.21.144, 48.21.146, 48.21.160 through 48.21.197, 48.21.200,~~
27 ~~48.21.220, 48.21.225, 48.21.230, 48.21.235, 48.21.240, 48.21.244,~~
28 ~~48.21.250, 48.21.300, 48.21.310, or 48.21.320.~~

29 ~~(2))~~ (a) The plan offered under this subsection may be offered
30 with a choice of cost-sharing arrangements, and may, but is not
31 required to, comply with: RCW 48.21.130 through 48.21.240, 48.21.244
32 through 48.21.280, 48.21.300 through 48.21.320, 48.43.045(1) except as
33 required in (b) of this subsection, 48.43.093, 48.43.115 through
34 48.43.185, 48.43.515(5), or 48.42.100.

35 (b) In offering the plan under this subsection, the insurer must
36 offer the small employer the option of permitting every category of

1 health care provider to provide health services or care for conditions
2 covered by the plan pursuant to RCW 48.43.045(1).

3 (2) An insurer offering the plan under subsection (1) of this
4 section must also offer and actively market to the small employer at
5 least one additional health benefit plan.

6 (3) Nothing in this section shall prohibit an insurer from
7 offering, or a purchaser from seeking, health benefit plans with
8 benefits in excess of the health benefit plan offered under subsection
9 (1) of this section. All forms, policies, and contracts shall be
10 submitted for approval to the commissioner, and the rates of any plan
11 offered under this section shall be reasonable in relation to the
12 benefits thereto.

13 ~~((+3))~~ (4) Premium rates for health benefit plans for small
14 employers as defined in this section shall be subject to the following
15 provisions:

16 (a) The insurer shall develop its rates based on an adjusted
17 community rate and may only vary the adjusted community rate for:

- 18 (i) Geographic area;
- 19 (ii) Family size;
- 20 (iii) Age; and
- 21 (iv) Wellness activities.

22 (b) The adjustment for age in (a)(iii) of this subsection may not
23 use age brackets smaller than five-year increments, which shall begin
24 with age twenty and end with age sixty-five. Employees under the age
25 of twenty shall be treated as those age twenty.

26 (c) The insurer shall be permitted to develop separate rates for
27 individuals age sixty-five or older for coverage for which medicare is
28 the primary payer and coverage for which medicare is not the primary
29 payer. Both rates shall be subject to the requirements of this
30 subsection ~~((+3))~~ (4).

31 (d) The permitted rates for any age group shall be no more than
32 four hundred twenty-five percent of the lowest rate for all age groups
33 on January 1, 1996, four hundred percent on January 1, 1997, and three
34 hundred seventy-five percent on January 1, 2000, and thereafter.

35 (e) A discount for wellness activities shall be permitted to
36 reflect actuarially justified differences in utilization or cost
37 attributed to such programs.

1 (f) The rate charged for a health benefit plan offered under this
2 section may not be adjusted more frequently than annually except that
3 the premium may be changed to reflect:

4 (i) Changes to the enrollment of the small employer;

5 (ii) Changes to the family composition of the employee;

6 (iii) Changes to the health benefit plan requested by the small
7 employer; or

8 (iv) Changes in government requirements affecting the health
9 benefit plan.

10 (g) Rating factors shall produce premiums for identical groups that
11 differ only by the amounts attributable to plan design, with the
12 exception of discounts for health improvement programs.

13 (h) For the purposes of this section, a health benefit plan that
14 contains a restricted network provision shall not be considered similar
15 coverage to a health benefit plan that does not contain such a
16 provision, provided that the restrictions of benefits to network
17 providers result in substantial differences in claims costs. A carrier
18 may develop its rates based on claims costs (~~(due to network provider~~
19 ~~reimbursement schedules or type of network)) for a plan. This
20 subsection does not restrict or enhance the portability of benefits as
21 provided in RCW 48.43.015.~~

22 (i) Except for small group health benefit plans that qualify as
23 insurance coverage combined with a health savings account as defined by
24 the United States internal revenue service, adjusted community rates
25 established under this section shall pool the medical experience of all
26 small groups purchasing coverage. However, annual rate adjustments for
27 each small group health benefit plan may vary by up to plus or minus
28 (~~four~~) eight percentage points from the overall adjustment of a
29 carrier's entire small group pool(~~(, such overall adjustment to be~~
30 ~~approved by the commissioner, upon a showing by the carrier, certified~~
31 ~~by a member of the American academy of actuaries that: (i) The~~
32 ~~variation is a result of deductible leverage, benefit design, or~~
33 ~~provider network characteristics; and (ii) for a rate renewal period,~~
34 ~~the projected weighted average of all small group benefit plans will~~
35 ~~have a revenue neutral effect on the carrier's small group pool.~~
36 ~~Variations of greater than four percentage points are subject to review~~
37 ~~by the commissioner, and must be approved or denied within sixty days~~
38 ~~of submittal)) if certified by a member of the American academy of~~

1 actuaries, that: (i) The variation is a result of deductible leverage,
2 benefit design, claims cost trend for the plan, or provider network
3 characteristics; and (ii) for a rate renewal period, the projected
4 weighted average of all small group benefit plans will have a revenue
5 neutral effect on the carrier's small group pool. Variations of
6 greater than eight percentage points are subject to review by the
7 commissioner, and must be approved or denied within thirty days of
8 submittal. A variation that is not denied within (~~sixty~~) thirty days
9 shall be deemed approved. The commissioner must provide to the carrier
10 a detailed actuarial justification for any denial (~~within thirty~~
11 ~~days~~) at the time of the denial.

12 (~~(+4)~~) (5) Nothing in this section shall restrict the right of
13 employees to collectively bargain for insurance providing benefits in
14 excess of those provided herein.

15 (~~(+5)~~) (6)(a) Except as provided in this subsection, requirements
16 used by an insurer in determining whether to provide coverage to a
17 small employer shall be applied uniformly among all small employers
18 applying for coverage or receiving coverage from the carrier.

19 (b) An insurer shall not require a minimum participation level
20 greater than:

21 (i) One hundred percent of eligible employees working for groups
22 with three or less employees; and

23 (ii) Seventy-five percent of eligible employees working for groups
24 with more than three employees.

25 (c) In applying minimum participation requirements with respect to
26 a small employer, a small employer shall not consider employees or
27 dependents who have similar existing coverage in determining whether
28 the applicable percentage of participation is met.

29 (d) An insurer may not increase any requirement for minimum
30 employee participation or modify any requirement for minimum employer
31 contribution applicable to a small employer at any time after the small
32 employer has been accepted for coverage.

33 (~~(+6)~~) (7) An insurer must offer coverage to all eligible
34 employees of a small employer and their dependents. An insurer may not
35 offer coverage to only certain individuals or dependents in a small
36 employer group or to only part of the group. An insurer may not modify
37 a health plan with respect to a small employer or any eligible employee

1 or dependent, through riders, endorsements or otherwise, to restrict or
2 exclude coverage or benefits for specific diseases, medical conditions,
3 or services otherwise covered by the plan.

4 ~~((7))~~ (8) As used in this section, "health benefit plan," "small
5 employer," "adjusted community rate," and "wellness activities" mean
6 the same as defined in RCW 48.43.005.

7 **Sec. 14.** RCW 48.44.023 and 2004 c 244 s 7 are each amended to read
8 as follows:

9 (1)~~((a))~~ A health care services contractor offering any health
10 benefit plan to a small employer, either directly or through an
11 association or member-governed group formed specifically for the
12 purpose of purchasing health care, may offer and actively market to the
13 small employer ~~((a))~~ no more than one health benefit plan featuring a
14 limited schedule of covered health care services. ~~((Nothing in this~~
15 ~~subsection shall preclude a contractor from offering, or a small~~
16 ~~employer from purchasing, other health benefit plans that may have more~~
17 ~~comprehensive benefits than those included in the product offered under~~
18 ~~this subsection. A contractor offering a health benefit plan under~~
19 ~~this subsection shall clearly disclose all covered benefits to the~~
20 ~~small employer in a brochure filed with the commissioner.~~

21 ~~(b) A health benefit plan offered under this subsection shall~~
22 ~~provide coverage for hospital expenses and services rendered by a~~
23 ~~physician licensed under chapter 18.57 or 18.71 RCW but is not subject~~
24 ~~to the requirements of RCW 48.44.225, 48.44.240, 48.44.245, 48.44.290,~~
25 ~~48.44.300, 48.44.310, 48.44.320, 48.44.325, 48.44.330, 48.44.335,~~
26 ~~48.44.340, 48.44.344, 48.44.360, 48.44.400, 48.44.440, 48.44.450, and~~
27 ~~48.44.460.~~

28 ~~(2))~~ (a) The plan offered under this subsection may be offered
29 with a choice of cost-sharing arrangements, and may, but is not
30 required to, comply with: RCW 48.44.210, 48.44.212, 48.44.225,
31 48.44.240 through 48.44.245, 48.44.290 through 48.44.340, 48.44.344,
32 48.44.360 through 48.44.380, 48.44.400, 48.44.420, 48.44.440 through
33 48.44.460, 48.44.500, 48.43.045(1) except as required in (b) of this
34 subsection, 48.43.093, 48.43.115 through 48.43.185, 48.43.515(5), or
35 48.42.100.

36 (b) In offering the plan under this subsection, the health care
37 service contractor must offer the small employer the option of

1 permitting every category of health care provider to provide health
2 services or care for conditions covered by the plan pursuant to RCW
3 48.43.045(1).

4 (2) A health care service contractor offering the plan under
5 subsection (1) of this section must also offer and actively market to
6 the small employer at least one additional health benefit plan.

7 (3) Nothing in this section shall prohibit a health care service
8 contractor from offering, or a purchaser from seeking, health benefit
9 plans with benefits in excess of the health benefit plan offered under
10 subsection (1) of this section. All forms, policies, and contracts
11 shall be submitted for approval to the commissioner, and the rates of
12 any plan offered under this section shall be reasonable in relation to
13 the benefits thereto.

14 ~~((3))~~ (4) Premium rates for health benefit plans for small
15 employers as defined in this section shall be subject to the following
16 provisions:

17 (a) The contractor shall develop its rates based on an adjusted
18 community rate and may only vary the adjusted community rate for:

- 19 (i) Geographic area;
- 20 (ii) Family size;
- 21 (iii) Age; and
- 22 (iv) Wellness activities.

23 (b) The adjustment for age in (a)(iii) of this subsection may not
24 use age brackets smaller than five-year increments, which shall begin
25 with age twenty and end with age sixty-five. Employees under the age
26 of twenty shall be treated as those age twenty.

27 (c) The contractor shall be permitted to develop separate rates for
28 individuals age sixty-five or older for coverage for which medicare is
29 the primary payer and coverage for which medicare is not the primary
30 payer. Both rates shall be subject to the requirements of this
31 subsection ~~((3))~~ (4).

32 (d) The permitted rates for any age group shall be no more than
33 four hundred twenty-five percent of the lowest rate for all age groups
34 on January 1, 1996, four hundred percent on January 1, 1997, and three
35 hundred seventy-five percent on January 1, 2000, and thereafter.

36 (e) A discount for wellness activities shall be permitted to
37 reflect actuarially justified differences in utilization or cost
38 attributed to such programs.

1 (f) The rate charged for a health benefit plan offered under this
2 section may not be adjusted more frequently than annually except that
3 the premium may be changed to reflect:

4 (i) Changes to the enrollment of the small employer;

5 (ii) Changes to the family composition of the employee;

6 (iii) Changes to the health benefit plan requested by the small
7 employer; or

8 (iv) Changes in government requirements affecting the health
9 benefit plan.

10 (g) Rating factors shall produce premiums for identical groups that
11 differ only by the amounts attributable to plan design, with the
12 exception of discounts for health improvement programs.

13 (h) For the purposes of this section, a health benefit plan that
14 contains a restricted network provision shall not be considered similar
15 coverage to a health benefit plan that does not contain such a
16 provision, provided that the restrictions of benefits to network
17 providers result in substantial differences in claims costs. A carrier
18 may develop its rates based on claims costs (~~(due to network provider~~
19 ~~reimbursement schedules or type of network)) for a plan. This
20 subsection does not restrict or enhance the portability of benefits as
21 provided in RCW 48.43.015.~~

22 (i) Except for small group health benefit plans that qualify as
23 insurance coverage combined with a health savings account as defined by
24 the United States internal revenue service, adjusted community rates
25 established under this section shall pool the medical experience of all
26 groups purchasing coverage. However, annual rate adjustments for each
27 small group health benefit plan may vary by up to plus or minus
28 (~~four~~) eight percentage points from the overall adjustment of a
29 carrier's entire small group pool(~~(, such overall adjustment to be~~
30 ~~approved by the commissioner, upon a showing by the carrier, certified~~
31 ~~by a member of the American academy of actuaries that: (i) The~~
32 ~~variation is a result of deductible leverage, benefit design, or~~
33 ~~provider network characteristics; and (ii) for a rate renewal period,~~
34 ~~the projected weighted average of all small group benefit plans will~~
35 ~~have a revenue neutral effect on the carrier's small group pool.~~
36 ~~Variations of greater than four percentage points are subject to review~~
37 ~~by the commissioner, and must be approved or denied within sixty days~~
38 ~~of submittal)) if certified by a member of the American academy of~~

1 actuaries, that: (i) The variation is a result of deductible leverage,
2 benefit design, claims cost trend for the plan, or provider network
3 characteristics; and (ii) for a rate renewal period, the projected
4 weighted average of all small group benefit plans will have a revenue
5 neutral effect on the carrier's small group pool. Variations of
6 greater than eight percentage points are subject to review by the
7 commissioner, and must be approved or denied within thirty days of
8 submittal. A variation that is not denied within (~~sixty~~) thirty days
9 shall be deemed approved. The commissioner must provide to the carrier
10 a detailed actuarial justification for any denial (~~within thirty~~
11 ~~days~~) at the time of the denial.

12 (~~(+4)~~) (5) Nothing in this section shall restrict the right of
13 employees to collectively bargain for insurance providing benefits in
14 excess of those provided herein.

15 (~~(+5)~~) (6)(a) Except as provided in this subsection, requirements
16 used by a contractor in determining whether to provide coverage to a
17 small employer shall be applied uniformly among all small employers
18 applying for coverage or receiving coverage from the carrier.

19 (b) A contractor shall not require a minimum participation level
20 greater than:

21 (i) One hundred percent of eligible employees working for groups
22 with three or less employees; and

23 (ii) Seventy-five percent of eligible employees working for groups
24 with more than three employees.

25 (c) In applying minimum participation requirements with respect to
26 a small employer, a small employer shall not consider employees or
27 dependents who have similar existing coverage in determining whether
28 the applicable percentage of participation is met.

29 (d) A contractor may not increase any requirement for minimum
30 employee participation or modify any requirement for minimum employer
31 contribution applicable to a small employer at any time after the small
32 employer has been accepted for coverage.

33 (~~(+6)~~) (7) A contractor must offer coverage to all eligible
34 employees of a small employer and their dependents. A contractor may
35 not offer coverage to only certain individuals or dependents in a small
36 employer group or to only part of the group. A contractor may not
37 modify a health plan with respect to a small employer or any eligible

1 employee or dependent, through riders, endorsements or otherwise, to
2 restrict or exclude coverage or benefits for specific diseases, medical
3 conditions, or services otherwise covered by the plan.

4 **Sec. 15.** RCW 48.46.066 and 2004 c 244 s 9 are each amended to read
5 as follows:

6 (1)~~((a))~~ A health maintenance organization offering any health
7 benefit plan to a small employer, either directly or through an
8 association or member-governed group formed specifically for the
9 purpose of purchasing health care, may offer and actively market to the
10 small employer ~~((a))~~ no more than one health benefit plan featuring a
11 limited schedule of covered health care services. ~~((Nothing in this~~
12 ~~subsection shall preclude a health maintenance organization from~~
13 ~~offering, or a small employer from purchasing, other health benefit~~
14 ~~plans that may have more comprehensive benefits than those included in~~
15 ~~the product offered under this subsection. A health maintenance~~
16 ~~organization offering a health benefit plan under this subsection shall~~
17 ~~clearly disclose all the covered benefits to the small employer in a~~
18 ~~brochure filed with the commissioner.~~

19 ~~(b) A health benefit plan offered under this subsection shall~~
20 ~~provide coverage for hospital expenses and services rendered by a~~
21 ~~physician licensed under chapter 18.57 or 18.71 RCW but is not subject~~
22 ~~to the requirements of RCW 48.46.275, 48.46.280, 48.46.285, 48.46.290,~~
23 ~~48.46.350, 48.46.355, 48.46.375, 48.46.440, 48.46.480, 48.46.510,~~
24 ~~48.46.520, and 48.46.530.~~

25 ~~(2))~~ (a) The plan offered under this subsection may be offered
26 with a choice of cost-sharing arrangements, and may, but is not
27 required to, comply with: RCW 48.46.250, 48.46.272 through 48.46.290,
28 48.46.320, 48.46.350, 48.46.375, 48.46.440 through 48.46.460,
29 48.46.480, 48.46.490, 48.46.510, 48.46.520, 48.46.530, 48.46.565,
30 48.46.570, 48.46.575, 48.43.045(1) except as required in (b) of this
31 subsection, 48.43.093, 48.43.115 through 48.43.185, 48.43.515(5), or
32 48.42.100.

33 (b) In offering the plan under this subsection, the health
34 maintenance organization must offer the small employer the option of
35 permitting every category of health care provider to provide health
36 services or care for conditions covered by the plan pursuant to RCW
37 48.43.045(1).

1 (2) A health maintenance organization offering the plan under
2 subsection (1) of this section must also offer and actively market to
3 the small employer at least one additional health benefit plan.

4 (3) Nothing in this section shall prohibit a health maintenance
5 organization from offering, or a purchaser from seeking, health benefit
6 plans with benefits in excess of the health benefit plan offered under
7 subsection (1) of this section. All forms, policies, and contracts
8 shall be submitted for approval to the commissioner, and the rates of
9 any plan offered under this section shall be reasonable in relation to
10 the benefits thereto.

11 ~~((3))~~ (4) Premium rates for health benefit plans for small
12 employers as defined in this section shall be subject to the following
13 provisions:

14 (a) The health maintenance organization shall develop its rates
15 based on an adjusted community rate and may only vary the adjusted
16 community rate for:

- 17 (i) Geographic area;
- 18 (ii) Family size;
- 19 (iii) Age; and
- 20 (iv) Wellness activities.

21 (b) The adjustment for age in (a)(iii) of this subsection may not
22 use age brackets smaller than five-year increments, which shall begin
23 with age twenty and end with age sixty-five. Employees under the age
24 of twenty shall be treated as those age twenty.

25 (c) The health maintenance organization shall be permitted to
26 develop separate rates for individuals age sixty-five or older for
27 coverage for which medicare is the primary payer and coverage for which
28 medicare is not the primary payer. Both rates shall be subject to the
29 requirements of this subsection ~~((3))~~ (4).

30 (d) The permitted rates for any age group shall be no more than
31 four hundred twenty-five percent of the lowest rate for all age groups
32 on January 1, 1996, four hundred percent on January 1, 1997, and three
33 hundred seventy-five percent on January 1, 2000, and thereafter.

34 (e) A discount for wellness activities shall be permitted to
35 reflect actuarially justified differences in utilization or cost
36 attributed to such programs.

37 (f) The rate charged for a health benefit plan offered under this

1 section may not be adjusted more frequently than annually except that
2 the premium may be changed to reflect:

3 (i) Changes to the enrollment of the small employer;

4 (ii) Changes to the family composition of the employee;

5 (iii) Changes to the health benefit plan requested by the small
6 employer; or

7 (iv) Changes in government requirements affecting the health
8 benefit plan.

9 (g) Rating factors shall produce premiums for identical groups that
10 differ only by the amounts attributable to plan design, with the
11 exception of discounts for health improvement programs.

12 (h) For the purposes of this section, a health benefit plan that
13 contains a restricted network provision shall not be considered similar
14 coverage to a health benefit plan that does not contain such a
15 provision, provided that the restrictions of benefits to network
16 providers result in substantial differences in claims costs. A carrier
17 may develop its rates based on claims costs (~~(due to network provider~~
18 ~~reimbursement schedules or type of network)) for a plan. This~~
19 subsection does not restrict or enhance the portability of benefits as
20 provided in RCW 48.43.015.

21 (i) Except for small group health benefit plans that qualify as
22 insurance coverage combined with a health savings account as defined by
23 the United States internal revenue service, adjusted community rates
24 established under this section shall pool the medical experience of all
25 groups purchasing coverage. However, annual rate adjustments for each
26 small group health benefit plan may vary by up to plus or minus
27 (~~four~~) eight percentage points from the overall adjustment of a
28 carrier's entire small group pool(~~(, such overall adjustment to be~~
29 ~~approved by the commissioner, upon a showing by the carrier, certified~~
30 ~~by a member of the American academy of actuaries that: (i) The~~
31 ~~variation is a result of deductible leverage, benefit design, or~~
32 ~~provider network characteristics; and (ii) for a rate renewal period,~~
33 ~~the projected weighted average of all small group benefit plans will~~
34 ~~have a revenue neutral effect on the carrier's small group pool.~~
35 ~~Variations of greater than four percentage points are subject to review~~
36 ~~by the commissioner, and must be approved or denied within sixty days~~
37 ~~of submittal)) if certified by a member of the American academy of
38 actuaries, that: (i) The variation is a result of deductible leverage,~~

1 benefit design, claims cost trend for the plan, or provider network
2 characteristics; and (ii) for a rate renewal period, the projected
3 weighted average of all small group benefit plans will have a revenue
4 neutral effect on the health maintenance organization's small group
5 pool. Variations of greater than eight percentage points are subject
6 to review by the commissioner, and must be approved or denied within
7 thirty days of submittal. A variation that is not denied within
8 ~~((sixty))~~ thirty days shall be deemed approved. The commissioner must
9 provide to the carrier a detailed actuarial justification for any
10 denial ~~((within thirty days))~~ at the time of the denial.

11 ~~((+4))~~ (5) Nothing in this section shall restrict the right of
12 employees to collectively bargain for insurance providing benefits in
13 excess of those provided herein.

14 ~~((+5))~~ (6)(a) Except as provided in this subsection, requirements
15 used by a health maintenance organization in determining whether to
16 provide coverage to a small employer shall be applied uniformly among
17 all small employers applying for coverage or receiving coverage from
18 the carrier.

19 (b) A health maintenance organization shall not require a minimum
20 participation level greater than:

21 (i) One hundred percent of eligible employees working for groups
22 with three or less employees; and

23 (ii) Seventy-five percent of eligible employees working for groups
24 with more than three employees.

25 (c) In applying minimum participation requirements with respect to
26 a small employer, a small employer shall not consider employees or
27 dependents who have similar existing coverage in determining whether
28 the applicable percentage of participation is met.

29 (d) A health maintenance organization may not increase any
30 requirement for minimum employee participation or modify any
31 requirement for minimum employer contribution applicable to a small
32 employer at any time after the small employer has been accepted for
33 coverage.

34 ~~((+6))~~ (7) A health maintenance organization must offer coverage
35 to all eligible employees of a small employer and their dependents. A
36 health maintenance organization may not offer coverage to only certain
37 individuals or dependents in a small employer group or to only part of
38 the group. A health maintenance organization may not modify a health

1 plan with respect to a small employer or any eligible employee or
2 dependent, through riders, endorsements or otherwise, to restrict or
3 exclude coverage or benefits for specific diseases, medical conditions,
4 or services otherwise covered by the plan.

5 NEW SECTION. **Sec. 16.** Captions used in this act are not part of
6 the law.

7 NEW SECTION. **Sec. 17.** Sections 1 through 5, 7 through 11, and 16
8 of this act constitute a new chapter in Title 70 RCW.

9 NEW SECTION. **Sec. 18.** Section 6 of this act takes effect July 1,
10 2006."

E2SHB 2572 - S AMD
By Senator

ADOPTED AS AMENDED 03/01/2006

11 On page 1, line 2 of the title, after "program;" strike the
12 remainder of the title and insert "amending RCW 48.21.045, 48.44.023,
13 and 48.46.066; adding a new section to chapter 82.04 RCW; adding a new
14 chapter to Title 70 RCW; creating a new section; and providing an
15 effective date."

--- END ---